Meabh Purcell, Esq.
LeBoeuf, Lamb, Greene & MacRae, LLP
260 Franklin Street
Boston, Massachusetts 02110

RE: Fitchburg Gas and Electric Light Company, EC-03-3

Dear Ms. Purcell:

On October 31, 2003, Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") filed, pursuant to G.L. c. 164, § 94, ¶ 3, for approval of an agreement ("Agreement") with PGM Plastics ("PGM" or "Customer") wherein the Company would provide the Customer with electric service at a discounted rate.[1] Pursuant to notice duly issued, the Department of Telecommunications and Energy ("Department") received comments on the Company's proposal from the Attorney General of the Commonwealth ("Attorney General") and from Senator Robert Antonioni. Additionally, the Company responded to six information requests that were issued by the Department.[2] For the reasons stated below, the Department finds that Fitchburg has met the requirements for the Department to approve the Agreement with PGM.

In its Petition, the Company maintains that, absent the Agreement, PGM would leave Fitchburg's service territory and move to Massachusetts Electric Company's service territory in order to obtain a lower rate (Petition at 2). Therefore, to retain PGM's load, Fitchburg proposes to provide PGM with delivery service at a 22 percent discount from Fitchburg's Rate GD-3, Large General Delivery Service (id.). The proposed Agreement is for five years,

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[1] Fitchburg revised its Petition on December 16, 2003 to include Customer information previously omitted.

[2] On its own motion, the Department enters into the record the Company's responses to the information requests as Exhibits DTE-1-1 through DTE-1-4 and Exhibits DTE-2-1 through DTE-2-2.

with an option of either party to renew annually for up to an additional five years (id. at 1). Fitchburg claims that the proposed Agreement will enable it to retain PGM as a Customer and to provide PGM with expansion load (id.). Fitchburg states that, if approved, the discount provided to PGM will not be subsidized by its remaining ratepayers (id. at 4).

In Standard of Review for Electric Contracts D.P.U./D.T.E. 96-39-A at 2, Letter Order (October 27, 1998), the Department described the terms under which distribution companies may offer discounts to customers. Specifically, a discount is allowed provided that a distribution company demonstrates that:

1. the discounted rate exceeds the company's marginal costs of distribution;
2. a discount to one customer is not recoverable from remaining ratepayers; and
3. the electricity contract is consistent with the law and Department policies and precedent.

Id.

With respect to the first requirement, Fitchburg asserts that the proposed Agreement meets the Department's marginal cost standard based on an appropriate computation of marginal costs, i.e., removal of certain fixed costs from its long-run marginal costs (Comments at 4). The Company states that the marginal costs approved in Fitchburg Gas and Electric Light Company, D.T.E. 02-24/25 (2002) include certain fixed costs and represent a system-wide average (id. at 4). According to Fitchburg, PGM has an existing facility currently operating and has expanded its operations into an adjacent, previously vacant, facility (id.). Thus, the Company's distribution system does not need to be expanded to meet PGM's energy needs (id.). The only work required to serve the expansion load was an upgrade in the service to the facility and Fitchburg claims that the cost to upgrade is included as a component in its marginal cost computation (id.). Accordingly, Fitchburg argues that it is appropriate to exclude fixed costs from the marginal costs calculation because the only costs that the Company will incur to serve the Customer are variable (id.).

The Attorney General does not agree that the revenues collected under the proposed Agreement will exceed the Company's marginal costs (Comments at 2). Instead, the Attorney General argues that the revenues collected should exceed the marginal costs used by the Department in D.T.E. 02-24/25, at 243 (id.).

The Attorney General, however, fails to recognize that Fitchburg has excess capacity on its distribution system to serve PGM's existing and expansion load (Petition at 4). For example, the circuit that serves PGM will remain at less than 70 percent of its total capacity even after the expansion of PGM's load, based on Fitchburg's five-year growth projection (Exhs. DTE 1-1; DTE 4-2). In judging whether to approve a special discounted contract, the Department may consider, among other things, the capacity of and load on the circuit that would serve the customer. The Company has made an adequate showing on this point. Therefore, it is appropriate to compare the revenues estimated to be collected from the proposed Agreement with the marginal costs that are estimated to serve PGM. Accordingly, we find that the Company properly removed the fixed costs from its marginal cost study approved in D.T.E. 02-24/25 for the purpose of determining its marginal cost because the distribution system does not need to be expanded to serve PGM's load.

In accordance with the approved calculation, Fitchburg's marginal cost to serve PGM is $45,076 annually (Petition at 4). As a result of the proposed Agreement, the Company anticipates receiving revenues of $81,961 annually (id.). Therefore, Fitchburg presently meets the first requirement of the Department's standard because the revenues from the proposed Agreement exceed the marginal costs by $36,885. This indicates that there is a net contribution to fixed costs under the proposed Agreement, thereby benefitting Fitchburg's other customers. The Company's load projection indicates that this net contribution will continue for the next five years (Exhs. DTE 1-1; 4-2).

With respect to the second requirement of the standard, the Company states that it will not seek recovery of the discount from its other ratepayers (id. at 4-5). The Attorney General, however, asserts that the Company has failed to show that it will not recover the discounted revenues from its other ratepayers (Comments at 2). To address this concern, the Department directs the Company in its next rate proceeding to demonstrate that the discount to PGM has not been and is not being recovered from Fitchburg's remaining ratepayers. Because Fitchburg has said that it will not seek recovery from its other ratepayers and because the Company must show that the continuation of the proposed contract will not result in cost-shifting among ratepayers in its next rate proceeding, the Department finds that Fitchburg meets the second requirement in that its discount to PGM will not be recovered from its remaining ratepayers.

With respect to the third requirement, the Department notes that the proposed Agreement is consistent with our precedent where we have approved discounted rates. Specifically, the discounted rates in the proposed Agreement are explicit and subject to a non-bypassable transition charge. G.L. c. 164, § 1G(A)1. Therefore, the Department finds that Fitchburg meets the third requirement as established in D.T.E. 96-39-A.

Despite the Attorney General's argument that Fitchburg should lower its rates for all customers rather than offer a discounted rate to a large industrial customer, the very purpose of an electric contract is to enable a utility to offer service at a discount to a customer who presents unique circumstances, where such circumstances are shown to be consistent with the interest of other ratepayers. Maintaining PGM as a customer is in the interests of the other ratepayers because the revenues generated as a result of this Agreement will help keep costs down for the Company's other customers. Moreover, the Attorney General' reading of G.L. c. 164, § 94, ¶ 3, would render it meaningless and nullify legislative intent. There is no necessary inconsistency between electric contracts properly fashioned to meet Department criteria and existing just and reasonable rates for tariffed customers.

Although we find that the proposed Agreement meets the terms under which distribution companies may offer off-tariff discounts to customers in D.T.E. 96-39-A, we note that economic circumstances and the amount of the Company's excess capacity may be vastly different five years from now, when the original term of the Agreement expires. Further, Fitchburg has only provided us with a five-year growth projection (Exh. DTE-1-1). Therefore, should either one of the Parties choose to exercise the option to renew the Agreement for a period beyond the original five-year term, Fitchburg must petition the Department for approval of that renewal.

By Order of the Department,

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Paul G. Afonso, Chairman

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre Manning, Commissioner